



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

GMP:BCR
F. #2009R01065

*271 Cadman Plaza East
Brooklyn, New York 11201*

January 21, 2019

By ECF

The Honorable Brian M. Cogan
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Joaquin Archivaldo Guzman Loera
Criminal Docket No. 09-466 (S-4) (BMC)

Dear Judge Cogan:

Pursuant to the Court's January 14, 2019 order (Dkt. No. 550), the parties respectfully submit their joint proposal and timeline for review of sealed and redacted filings in the above-captioned matter.

As the Court has recognized, this is a large and complex criminal trial, and the parties' resources and attention cannot easily be diverted while respecting the defendant's right to a fair trial. Pre-trial proceedings in this case were also complex and lengthy, frequently involving sensitive issues such as witness security and ongoing government investigations. The prosecution, defense, and the Court have all filed various documents under seal or in redacted form in respect of these sensitivities, mindful of the law governing sealing and the public right of access to judicial documents.

Based on an initial review of the docket, it appears that approximately 140 documents have been filed under seal and another 50 have been filed with partial redactions. These include documents filed by both parties as well as orders of the Court.

The parties propose the following timeline for review of these documents.

- Within four days following the conclusion of the government's case-in-chief, the government will unseal, propose redactions, or explain why continued sealing is justified with respect to the government's sealed documents identified in the letter motion filed by the New York Times (Dkt. No. 536) (the "Times Letter").

As set forth in the government's prior filing on this subject, see Dkt. No. 549, the government anticipates that a substantial majority of the contents of its pretrial filings relating to cooperating witnesses will be unsealed at that point.

- Within seven days following closing arguments, the defendant will unseal, propose redactions, or explain why continued sealing is justified with respect to the defendant's sealed documents identified in the Times Letter.
- Within thirty days following the entry of a verdict, the parties will unseal, propose redactions, or explain why continued sealing is justified with respect to docket entries filed since October 1, 2018.
- Within sixty days following the entry of a verdict, the parties will unseal, propose redactions, or explain why continued sealing is justified with respect to the remaining docket entries.

This proposal effectively sets forth a rolling basis for the review and unsealing of sealed filings in this case, focusing first on the docket entries identified with specificity in the Times Letter, then on the most recent filings, and then the remainder of the docket. The parties will provide the results of this review to the Court in a chart, drafted jointly where possible, setting forth the parties' positions with respect to each sealed or redacted docket entry.

With respect to the Court's pending Orders to Show Cause related to the lifting of redactions in the Court's orders on various motions, the government has no objection to lifting the redactions that identify cooperating witnesses in docket entries 438 and 507, given that the cooperating witnesses in question have now testified. Docket entries 462 and 464 concern cooperating witnesses who have not yet testified. The government will respond to the

Orders to Show Cause relating to those docket entries upon the conclusion of the witnesses' testimony.

COUNSEL FOR DEFENDANT
A. Eduardo Balarezo, Esq.
William Purpura, Esq.
Jeffrey H. Lichtman, Esq.

Respectfully submitted,

RICHARD P. DONOGHUE
UNITED STATES ATTORNEY
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

ARTHUR G. WYATT, CHIEF
Narcotic and Dangerous Drug Section
Criminal Division,
U.S. Department of Justice

OF COUNSEL:
ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY
Southern District of Florida

cc: Clerk of the Court (BMC) (by ECF)